MONTANA LEGISLATIVE HISTORY

Chapter 294 ~~19~~ 2001

Bill H _____ S 340 Original bill & history ___C

H. Committee on Business & Labor		S. Committee on Business & Labor	
Hearing Date(s) 3-23	✓C	Hearing Date(s) 2-13	✓C
3-27	✓C	2-14	—C
_____	___C	_____	___C
_____	___C	_____	___C
Date Out _____	___C		

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 10.9}

SENATOR DON RYAN, SD 22, GREAT FALLS, said this is a good bill.

HEARING ON SB 340

Sponsor: **SENATOR DALE BERRY, SD 30, HAMILTON**

Proponents: **Zane Sullivan, Montana Association of Realtors**
Roger Halver, Montana Association of Realtors
Ronda Carpenter, Montana Housing Providers

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 11.7}

SENATOR DALE BERRY, SD 30, HAMILTON, said for realtors all funds now have to be deposited in the managing supervisors trust account and it becomes a clutter. He said there are real estate agents who buy and sell properties and rent properties of their own and as the law is now, every rent check, everything, has to go into the broker's trust account. He stated that the broker then has to run the money back to the salesperson. He said passage of this bill would change this so that if it is a part of the salespersons personal transaction they wouldn't have to put the money into the trust account. **EXHIBIT(bus36a05)**

Proponents' Testimony:

Zane Sullivan, Montana Association of Realtors, said a real estate salesperson has to be under the supervision of a licensed broker. He said this bill would bring into law that which is already happening, which is that salespersons wouldn't have to put into trust accounts moneys from their own personal transactions. **EXHIBIT(bus36a06)**

Roger Halver, Montana Association of Realtors, said the law as it now exists lends itself to various forms of abuse, this new bill would solve some of the potential problems.

Ronda Carpenter, Montana Housing Providers, said the current law is a good protection for people if the realtor is only managing the property for someone else. It holds money in trust when there would be nothing else for someone to fall back on.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SENATOR MIKE SPRAGUE asked how the amendments would be covered under the title of the bill.

Roger Halver said the title of the bill is very generic and the amendments will fall under that title.

Bart Campbell said he would check the legality of it.

Closing by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 27.2}

SENATOR DALE BERRY, SD 30, HAMILTON, said it doesn't change the supervision of salespeople by the broker, except for their own personal transactions.

HEARING ON SB 323

Sponsor: **WALTER MCNUTT, SD 50, SIDNEY**

Proponents: **John Alke, Montana Defense Trial Lawyers**
Webb Brown, Montana Chamber of Commerce
Larry Jones, Attorney for Liberty Northwest
Riley Johnson, Federation of Independent Business
Leland Griffin, Montana Refining Company
Nancy Schlepp, Montana Farm Bureau
Patrick Montaban, Oil and Gas Association
Holly Franz, ASIMI
Carl Schweitzer, Chamber of Commerce
Charles Brooks, Billings Chamber of Commerce
Chris Gallus, Montana Retail Association
Kristi Blazer, Beer & Wine Wholesalers
Bob Worthington, Montana Cities and Towns
Ray Barnicoat, Montana Association of Counties
Nancy Butler, State Fund
Jacqueline Lenmark, American Insurance Association
Derek Brown, Derek Brown Construction

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 5
DATE 2-13-2001
BILL NO. SB340

SENATE BILL NO. 340

SPONSOR'S AMENDMENTS

BE AMENDED AS FOLLOWS:

1. New Section

Section 37-51-309, MCA, is amended to read:

37-51-309 Broker owner -- broker associate -- salesperson -- notice to department of change of association. (1) A salesperson may not be associated with or under contract to more than one licensed broker owner, nor may he perform services for a broker other than the one designated on the license issued to the salesperson.

(2) When a licensed salesperson desires to change his association or contractual relationship from one licensed broker to another, he shall notify the department promptly in writing of these facts, pay the required fee, and return his license and pocket card, and a new license and pocket card shall be issued. No salesperson shall directly or indirectly work for or with a broker owner until he has been issued a license to work for or with that broker owner. On termination of a salesperson's association or contractual relationship, he shall surrender his license and pocket card to his broker owner who shall return them to the department for cancellation.

(3) Only one license shall be issued to a salesperson to be in effect at one time.

(4) A broker associate may not be associated with more than one broker owner.

(5) The provisions of this chapter shall not prohibit a salesperson from engaging in personal transactions. The use of the phrase "actively supervise and train" in this chapter shall not require the supervising broker to exercise any supervision or training in regards to a salesperson's personal transactions. Neither a broker nor a supervising broker is liable, under any theory of recovery, nor otherwise responsible for the actions or inactions of any salesperson in regards to a salesperson's personal transactions.

(6) Prior to entering into a personal transaction the salesperson shall make a written disclosure to the other party that the transaction is personal to the salesperson and does not involve the salesperson's broker or brokerage company.

(7) For the purposes of this chapter a personal transaction includes the following:

(A) the sale, purchase or exchange of real property owned or acquired by the salesperson; and

(B) the leasing or renting of real property owned by the salesperson.

2. Page 2, Line 30
Following: "salesperson's"
Strike: "registered"
Insert: "supervising"

3. Page 2, Line 28
Following: "chapter"
Insert: "or intentionally violating the Residential Landlord and Tenant Act of 1977, Title 70, Part 24, or the Residential Tenants' Security Deposits Act, Title 70, Part 25"

SENATE LABOR & EMPLOYMENT
EXHIBIT NO. 6
DATE 2-13-2001
BILL NO. SB 340

Century 21
Summit Realty
1941 West Main
Bozeman, Montana 59718
Business (406) 586-2111
Fax (406) 586-8668
E-Mail summitc21@aol.com

February 5, 2001

Business and Labor
Helena, MT

Dear Mr. Chairman and Members of the Committee:

In regards to Senate Bill 340 concerning Security Deposits.

We have been experiencing some problems with Broker Owner's not hiring agents who own their own rental property because they do not want to handle the deposits through their trust accounts. This would also be true for a property management company, if they hired a receptionist, etc. the funds would have to be turned over to the property management companies trust account and therefore make the owner of the real estate company or the property management company responsible for the individuals personal property.

I believe that this bill would make each owner individually responsible for the funds of a tenant.

Therefore I am asking you to support this bill.

Sincerely,

Donna Kostelecky,
Broker Associate

MONTANA SENATE
2001 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL

DATE 2-1

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DALE BERRY	✓		
SENATOR ED BUTCHER	✓		
SENATOR VICKI COCCHIARELLA	✓		
SENATOR SAM KITZENBERG	✓		
SENATOR DALE MAHLUM	✓		
SENATOR GLENN ROUSH	✓		
SENATOR DON RYAN	✓		
SENATOR MIKE SPRAGUE, VICE CHAIR	✓		
SENATOR MIKE TAYLOR, CHAIR	✓		

DATE Feb 13, 2001

SENATE COMMITTEE ON Business & Labor

BILLS BEING HEARD TODAY: SB 357, SB 340, SB 421, SB 323

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Don Judge	442-1708	MT AFL-CIO	SB323		X
Robbin Redman	295-7040	Asbestos Victims	SB323		X
George Wood	443-2700	MT. Self Insurers Assoc	SB323	~~SB3~~	
Les Skramstad	293-6602	Asbestos Victim	SB323		X
Norita Skramstad	293-6602	" "	SB323		X
Gayla Benefiel	293-5535	" "	SB323		X
LeRoy Thom	293-8733	ASBESTOS VICTIMS	SB323		X
AL SMITH		MTLA	SB323		X
Roger Sullivan	752-5566	LIBBY ASBESTOS VICTIMS	SB 323		X
Zane Sullivan	721-9700	Montana Assoc. of Realtors	SB 340	Y	
Larry Jones	543-4933	C. Berk Northwest	SB 323	X	
Al Smith	443-3124	MTLA	SB 323		X
Larry Anderson	(406)727-8466		323		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 2-13-2001

SENATE COMMITTEE ON Business & Labor

BILLS BEING HEARD TODAY: SB 351, SB 340, SB 421, SB 323

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Ronda Carpenter	590-5609	MT Housing Providers	SB340	X	
Pete Sherner	256-3955	Self	SB323		X
Randy Bishop	245-7555	Self	SB323		X
ROGER SULLIVAN	752-5511	LIBBY ASBESTOS VICTIMS	SB 323		X
GAYLA BENEFIEL	293-5535	" "	SB323		X
Roger Halver	459-7529	MT Asso of Realtors	SB340	X	
Larry Andersen	727-8466		SB323		X
Leland Griffin	761-4100	Montana Refining Co.	SB323	X	
WEBB BROWN	442-2405	MT CHAMBER	SB323	X	
Dexter Busby	761-4100	Mont. Ref. Co.	SB323	X	
Kristi Blazer	4427450	MT Beer & Wine Wholesalers	SB323		
Nancy Schlepp	442-9476	MT Farm Bureau	SB323	X	
Roy Brown	457-7210	MACo	SB323	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

EXECUTIVE ACTION ON SB 118

Motion/Vote: **SEN. ROUSH** moved that **AMENDMENTS TO SB 118 BE ADOPTED. Motion carried unanimously.**

Motion/Vote: **SEN. ROUSH** moved that **SB 118 DO PASS AS AMENDED. Motion failed 5-4 with Cocchiarella, Kitzenberg, Mahlum, Roush, and Ryan voting aye.**

Motion/Vote: **SEN. TAYLOR** moved that **SB 118 BE TABLED. Motion carried 5-4 with Cocchiarella, Kitzenberg, Roush, and Ryan voting no.**

EXECUTIVE ACTION ON SB 292

Motion/Vote: **SEN. SPRAGUE** moved that **AMENDMENTS TO SB 292 BE ADOPTED. Motion carried unanimously.**

Motion/Vote: **SEN. SPRAGUE** moved that **SB 292 DO PASS AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 340

Motion: **SEN. TAYLOR** moved that **AMENDMENTS TO SB 340 BE ADOPTED.**

SENATOR SPRAGUE pointed out that the amendments speak to the roto rooter guy, he can still do what he does if he doesn't advertise himself as a plumber.

Vote: **Motion carried unanimously.**

Motion/Vote: **SEN. TAYLOR** moved that **SB 340 DO PASS AS AMENDED. Motion carried unanimously.**

EXECUTIVE ACTION ON SB 323

Motion/Vote: **SEN. TAYLOR** moved that **SB 323 DO PASS. Motion carried 8-1 with Vicki Cocchiarella voting no.**

MONTANA SENATE
2001 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL

DATE 2-14-2001

NAME	PRESENT	ABSENT	EXCUSED
SENATOR DALE BERRY	✓		
SENATOR ED BUTCHER	✓		
SENATOR VICKI COCCHIARELLA	✓		
SENATOR SAM KITZENBERG	✓		
SENATOR DALE MAHLUM	✓		
SENATOR GLENN ROUSH	✓		
SENATOR DON RYAN	✓		
SENATOR MIKE SPRAGUE, VICE CHAIR	✓		
SENATOR MIKE TAYLOR, CHAIR	✓		

MONTANA SENATE
2001 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE 2-14-2001 BILL NO. ~~SB~~ HB 340 NUMBER 11

MOTION: Sen Taylor moves amendments DO PASS (SB034001.abc)

NAME	AYE	NO
SENATOR DALE BERRY		
SENATOR ED BUTCHER		
SENATOR VICKI COCCHIARELLA		
SENATOR SAM KITZENBERG		
SENATOR DALE MAHLUM		
SENATOR GLENN ROUSH		
SENATOR DON RYAN		
SENATOR MIKE SPRAGUE, VICE CHAIR		
SENATOR MIKE TAYLOR, CHAIR		

MONTANA SENATE
2001 LEGISLATURE
BUSINESS AND LABOR COMMITTEE
ROLL CALL VOTE

DATE 2-14-2001 BILL NO. SB340 NUMBER 12

MOTION: Sen Taylor moves DO PASS AS Amended

NAME	AYE	NO
SENATOR DALE BERRY		
SENATOR ED BUTCHER		
SENATOR VICKI COCCHIARELLA		
SENATOR SAM KITZENBERG		
SENATOR DALE MAHLUM		
SENATOR GLENN ROUSH		
SENATOR DON RYAN		
SENATOR MIKE SPRAGUE, VICE CHAIR		
SENATOR MIKE TAYLOR, CHAIR		

Amendments to Senate Bill No. 340
1st Reading Copy

Requested by Senator Dale Berry

For the Senate Business and Labor Committee

Prepared by Bartley Campbell
February 13, 2001 (4:08PM)

1. Title, line 4.
Following: ""AN ACT"
Insert: "PROVIDING GUIDELINES FOR PERSONAL TRANSACTIONS BY REAL ESTATE SALESPERSONS; DEFINING "PERSONAL TRANSACTION";"

2. Title, line 6.
Strike: "REGISTERED"
Insert: "SUPERVISING"

3. Title, line 8.
Strike: "SECTION"
Insert: "SECTIONS 37-51-309 AND"

4. Page 1, following line 11.
"Section 1. Section 37-51-309, MCA, is amended to read:

"37-51-309. Broker owner -- broker associate -- salesperson -- personal transactions of salesperson -- notice to department of change of association. (1) A salesperson may not be associated with or under contract to more than one licensed broker owner~~, nor may he~~ or perform services for a broker other than the one designated on the license issued to the salesperson.

(2) When a licensed salesperson desires to change ~~his~~ association or contractual relationship from one licensed broker to another, ~~he~~ the salesperson shall notify the department promptly in writing of these facts, pay the required fee, and return ~~his~~ the salesperson's license and pocket card, and a new license and pocket card ~~shall~~ must be issued. ~~No~~ A salesperson ~~shall~~ may not directly or indirectly work for or with a broker owner until ~~he~~ the salesperson has been issued a license to work for or with that broker owner. On termination of a salesperson's association or contractual relationship, ~~he~~ the salesperson shall surrender ~~his~~ the salesperson's license and pocket card to ~~his~~ the broker owner who shall return them to the department for cancellation.

(3) Only one license ~~shall~~ may be issued to a salesperson

to be in effect at one time.

(4) A broker associate may not be associated with more than one broker owner.

(5) (a) The provisions of this chapter do not prohibit a salesperson from engaging in personal transactions, and the provisions of this chapter do not require a broker to exercise any supervision or provide any training for a salesperson with respect to personal transactions of the salesperson.

(b) A broker is not responsible or liable for the personal transactions of a salesperson.

(c) Prior to entering into a personal transaction, a salesperson shall disclose in writing to the other party that the transaction is a personal transaction with respect to the salesperson and that the transaction does not involve the salesperson's broker or real estate firm.

(6) For the purposes of this part, "personal transaction" includes the following:

(a) the sale, purchase, or exchange of real property owned or acquired by the salesperson; and

(b) the leasing or renting of real property owned by the salesperson."

{*Internal References to 37-51-309: None.*}

Renumber: subsequent sections

5. Page 2, line 30.
Strike: "registered"
Insert: "supervising"

- END -

HEARING ON SB340

Sponsor: **SEN. DALE BERRY, SB340, HAMILTON**

Proponents: **John Tabarecci, Montana Assn. of Realtors**
Rhonda Carpenter, Montana Housing Providers
Roger Halver, Montana Assn. of Realtors

Opponents: None

Opening Statement by Sponsor:

SEN. DALE BERRY, SD30, HAMILTON, said this act provides guidelines for personal transactions by real estate salespeople, defines "personal transaction," and revises real estate law about depositing personal transactions in a broker's account. He noted these applied to both rental and sales transactions.

Proponents' Testimony:

Mr. Tabarecci said a salesperson in real estate is under the supervision of the broker. Under the current law all money received by the salesperson is to be deposited in the broker's account. This law clarifies that when it is a personal transaction of the salesperson, this fact must be disclosed, and the money cannot be deposited in the broker's account and the broker is not responsible for the transaction or supervision of the transaction.

Ms. Carpenter said the legislation was brought about as a result of the fact she teaches a continuing education class for housing providers and Realtors. She said many of her students around the state would mention personal transactions being run through the broker's account. This bill separates the salesperson's private interests from the business.

Mr. Halver said this bill is different from the bill presented in the Senate. He said he was not comfortable with that one. The bill has been amended so the salesperson must disclose that he is not the owner of the property. He presented a letter asking the committee's support. **EXHIBIT(buh66a01)**

Opponents' Testimony: None

Questions from Committee Members and Responses:

REP. LAIBLE said to **SEN. BERRY** that the current laws had been on the books a long time and asked if he was comfortable with this change. **SEN. BERRY** said he was comfortable with the fact that this consumer would be protected by this law.

REP. BITNEY asked **Mr. Tabarecci** how the broker and agent would be affected. He replied that nothing in this bill would get the agent "off the hook" for being responsible, but the bill did lessen the liability for the broker/owner.

Closing by Sponsor:

SEN. BERRY concluded by saying the error and omission insurance did not cover personal transaction. He said this was a good bill that would eliminate more problems than it would create.

{Tape : 1; Side : A; Approx. Time Counter : 28}

HEARING ON SB405

Sponsor: **SEN. GREG JERGESON, SD46, CHINOOK**

Proponents: **Mr. Jeff Brandt, Department of Administration**
Joe Mazurek, Montana Interactive
Larry Fasbender, Department of Justice
James Thomas, Secretary of State' Office

Opponents: None

Opening Statement by Sponsor:

SEN. GREG JERGESON, SD46, CHINOOK, said this bill had been brought at the request of the Senate Finance Committee. He said last session they directed a study to be engaged in on technology issues in state government by a select committee. One of the reports concerned e-government services and how to assess fees, he said. In order to do that the e-government services needed statutory framework. The bill provides for the duties and responsibilities of the Department of Commerce with regard to electronic government services, he said. It also, provides definitions, authorizes fees, rules and an advisory council, he added. He noted the fees might reflect the extra cost involved in mailing a license plate and recovering credit card cost.

{Tape : 1; Side : B; Approx. Time Counter : 0}

EXHIBIT 1
DATE 3-23-01
SB 340

Century 21
Summit Realty
1941 West Main
Bozeman, Montana 59718
Business (406) 586-2111
Fax (406) 586-8668
E-Mail summitc21@aol.com

February 5, 2001

Business and Labor
Helena, MT

Dear Mr. Chairman and Members of the Committee:

In regards to Senate Bill 340 concerning Security Deposits.

We have been experiencing some problems with Broker Owner's not hiring agents who own their own rental property because they do not want to handle the deposits through their trust accounts. This would also be true for a property management company, if they hired a receptionist, etc. the funds would have to be turned over to the property management companies trust account and therefore make the owner of the real estate company or the property management company responsible for the individuals personal property.

I believe that this bill would make each owner individually responsible for the funds of a tenant.

Therefore I am asking you to support this bill.

Sincerely,

Donna Kostelecky,
Broker Associate

HOUSE OF REPRESENTATIVES
ROLL CALL

HOUSE BUSINESS AND LABOR COMMITTEE

DATE MARCH 23, 2001

NAME	PRESENT	ABSENT	EXCUSED
Rep. Joe McKenney	✓		
Rep. Gary Matthews	✓		
Rep. Roy Brown	✓		
Rep. Kathleen Galvin-Halcro	✓		
Rep. Carol Juneau	✓		
Rep. Rick Laible	✓		
Rep. John Musgrove	✓		
Rep. Nancy Rice-Fritz	✓		
Rep. Don Steinbeisser	✓		
Rep. Jim Whitaker	✓		
Rep. Rod Bitney	✓		
Rep. Sylvia Bookout-Reinicke	✓		
Rep. Dave Gallik			✓
Rep. Dennis Himmelberger	✓		
Rep. Jim Keane	✓		
Rep. Bob Lawson	✓		
Rep. Bill Price	✓		
Rep. Brett Tramelli	✓		
Rep. Allen Rome	✓		

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

Business and Labor Committee

DATE March 23, 2001

BILL NO. SB 340 SPONSOR(S) Sen Berry

TYPE
PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
(P) O I	John Tabaracci	Missoula, MT	Mont. Assn. Realtors
(P) O I	Roger Halver	HELENA	Mont Assoc Realtors
(P) O I	Ronda Carpenter		MT Housing Providers
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

S:\visitor register.frm

Executive Action: SB405, SB480, SB340, SB445, HB650, HB593, SB469, SB474, SB298, SB327, SB465

EXECUTIVE ACTION ON SB405

Motion/Vote: **REP. LAIBLE** moved that **SB405 BE CONCURRED IN. Motion carried unanimously.**
REP. LINDEEN will carry the bill in the House.

EXECUTIVE ACTION ON SB480

Motion/Vote: **REP. FRITZ** moved that **SB480 BE CONCURRED IN. Motion carried unanimously.**
REP. LAIBLE will carry the bill in the House.

EXECUTIVE ACTION ON SB340

Motion: **REP. LAWSON** moved that **SB340 BE CONCURRED IN.**

Discussion:

REP. FRITZ said she would like someone else's opinion because she thought perhaps a real estate agent could misrepresent himself and say he owned the property.

REP. LAIBLE said he had thought of that too, but it is covered under existing rules for realtors.

REP. PRICE said he thought that was what the disclosure part concerned.

REP. HIMMELBERGER said the current law pertains to rental property.

Vote: Motion **carried unanimously.**
REP. BITNEY will carry the bill in the House.

EXECUTIVE ACTION ON SB445

HOUSE OF REPRESENTATIVES
ROLL CALL

HOUSE BUSINESS AND LABOR COMMITTEE

DATE March 27, 2001

NAME	PRESENT	ABSENT	EXCUSED
Rep. Joe McKenney	✓		
Rep. Gary Matthews	✓		
Rep. Roy Brown	✓		✓
Rep. Kathleen Galvin-Halcro	✓		
Rep. Carol Juneau	✓		
Rep. Rick Laible	✓		
Rep. John Musgrove	✓		
Rep. Nancy Rice-Fritz	✓		
Rep. Don Steinbeisser	✓		✓
Rep. Jim Whitaker	✓		
Rep. Rod Bitney			✓
Rep. Sylvia Bookout-Reinicke	✓		✓
Rep. Dave Gallik	✓		
Rep. Dennis Himmelberger	✓		
Rep. Jim Keane	✓		
Rep. Bob Lawson	✓		
Rep. Bill Price	✓		
Rep. Brett Tramelli	✓		
Rep. Allen Rome	✓		

HOUSE STANDING COMMITTEE REPORT

March 27, 2001

Mr. Speaker:

We, your committee on **Business and Labor** recommend that **Senate Bill 340** (third reading copy – blue) **be concurred in.**

Signed: _____
Representative Joe McKenney, Chair

To be carried by Representative Rod Bitney

- END -

Committee Vote:
Yes 19, No 0.

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